

**FACT SHEET for
2014 Renewal of the FHWA and SHPO Programmatic Agreement (PA)**

PA Overview:

- Establishes an alternative to 36 CFR 800 for complying with Section 106 of the National Historic Preservation Act, in effect January 2014 through December 2023.
- Modifies, improves, and replaces current PA, in effect January 2004 through December 2013.
- Outlines the process to be followed by the California Department of Transportation (Caltrans) and local agencies on state and locally sponsored transportation projects that have Federal Highway Administration (FHWA) funding or other involvement.
- Shortens the entire process without compromising either the process or historic properties.
- Honors the request of Indian Tribes for government to government consultation with FHWA.
- Authorizes Caltrans, to provide for an effective and efficient process, to carry out Section 106 consultation with Indian tribes, with the tribe's approval, and that consultation may involve Caltrans or local agency staff, or their consultants with Caltrans oversight.
- Retains the roles and responsibilities of other participants in the section 106 process, including but not limited to Indian tribes, representatives of local governments, certain individuals and organizations that have a demonstrated interest in the undertaking, and the public.

The new PA also:

- Clarifies roles and responsibilities under NEPA Assignment.
- Adds Army Corps as an Invited Signatory, and documents FHWA/Caltrans as federal lead for Section 106 compliance when a Corps permit is issued.
- Provides for the PA to be applicable on tribal lands, if the Indian tribe agrees and signs as a concurring party to the PA. Otherwise the standard process for complying with Section 106 codified in 36 CFR Part 800 will be followed.
- Allows Federal agencies to sign on as concurring party.
- Updates list of screened undertakings, exempt properties, and Standard Conditions for the protection of historic properties.
- Limits review of No Adverse Effect with Standard Conditions to 15 days at Caltrans Cultural Studies Office (CSO); no SHPO review required.
- Delegates No Adverse Effect and Adverse Effect approval and processing from FHWA to CSO on projects excluded from NEPA assignment.
- Significantly reduces Adverse Effect notifications and MOA submittals to Advisory Council on Historic Preservation.
- Provides procedures for Emergency Undertakings and expands the definition of an emergency.
- Clarifies procedures for Post-Review Discoveries.
- Adds an Exclusion Provision where individual Districts can be put on probation.

What doesn't change:

- Does not apply to undertakings on or affecting Tribal lands (unless the tribe is a concurring party).
- Requires Professionally Qualified Staff (PQS) to oversee all undertakings for compliance with the PA.
- Provides for consultation with Indian tribes for identifying and evaluating historic properties of religious and cultural significance, and for assessing effects to those properties.
- Exempts from evaluation common features of the built environment infrastructure, modern buildings, and isolated archaeological finds as determined by the appropriate PQS.
- Processing of Screened Undertakings (85% of projects) by Caltrans PQS with a memo to file.
- Provides for District consultation directly with SHPO on eligibility of historic properties.
- Allows for foregoing formal testing of archaeological sites that can be protected from project impacts, thus reducing excavation of sites.